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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
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In the Matter of )

Communications Assistance for )  
Law Enforcement Act )

CC Docket No. 97-213

To: The Commission

**COMMENTS OF AT&T CORP.**

Pursuant to the Commission's recent *Public Notice*,<sup>1</sup> AT&T Corp. ("AT&T") respectfully submits these comments in support of the petition by the Cellular Telecommunications Industry Association ("CTIA")<sup>2</sup> to suspend the September 30, 2001 compliance date for certain assistance capabilities under the Communications Assistance for Law Enforcement Act ("CALEA").<sup>3</sup> Without immediate guidance from the Commission, the complex re-engineering of the Nation's telecommunications infrastructure mandated by CALEA, the timing of which is being orchestrated by the Commission, faces yet another circuitous detour, resulting in wasted duplication of engineering efforts and needless expenditures of private and public sector resources.

<sup>1</sup> Comments Invited on CTIA Petition to Suspend CALEA Compliance Date, *Public Notice*, CC Docket No. 97-213, DA 00-2022 (rel. September 1, 2000).

<sup>2</sup> Cellular Telecommunications Industry Association, *Petition to Suspend Compliance Date*, CC Docket No. 97-213 (filed August 23, 2000).

<sup>3</sup> Pub. L. 103-414, 108 Stat. 4279 (1994), *codified at* 47 U.S.C. §§ 1001 *et seq.*

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The September 30, 2001 compliance date was set by the Commission's *Third Report & Order*,<sup>4</sup> which, on August 15, 2000, was vacated and remanded to the Commission for further proceedings by the United States Court of Appeals for the District of Columbia Circuit.<sup>5</sup> Specifically, the Court of Appeals vacated four of the six "punch list" capabilities mandated by the Commission's *Third Report & Order*: 1) "party join, hold, drop on conference calls;" 2) "subject-initiated dialing and signaling information;" 3) "in-band and out-of-band signaling;" and 4) "dialed digit extraction."

For these four capabilities, of course, no compliance date exists until the Commission acts on the court's remand, determines whether any of the capabilities are required under CALEA, and establishes a new compliance schedule, pursuant to section 107(b)(5) of CALEA.<sup>6</sup> However, for "packet mode communications" and the two punch list features that were not challenged in the appeal ("timing" and the "content of subject-initiated conference calls"), the September 2001 deadline still applies.

Telecommunications carriers, like AT&T, cannot presume to know the outcome or timing of the Commission's proceedings, but given the complexities of the remand order we respectfully suggest that this effort will take several months at a minimum and perhaps longer. In the mean time, carriers are devoting scarce engineering resources to comply with the rapidly approaching September 2001 deadline – now only twelve months away. As CTIA accurately

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<sup>4</sup> In the Matter of the Communications Assistance for Law Enforcement Act, *Third Report & Order*, CC Docket No. 97-213, FCC 99-230 (rel. August 31, 1999).

<sup>5</sup> *United States Telecom Association, et al. v. Federal Communications Commission, at al.*, No. 99-1442, slip op. (D.C. Cir. August 15, 2000).

<sup>6</sup> 47 U.S.C. §1006(b)(5).

observes, the court's decision has created enormous uncertainty in the industry about how to proceed. Carriers are uncertain whether to attempt to disentangle the software and hardware solutions for the four vacated features from the remaining capabilities (a complex and, ultimately, extremely inefficient process), cease compliance work entirely, or proceed with development work on all six features and run the risk that they will subsequently have to modify their solution.

It is not yet clear whether a separate solution for just the two unchallenged punch list features will be available from AT&T's vendors (and, if so, on what schedule). For example, the "content of subject-initiated conference call" capability is closely intertwined with the other, vacated punch list features (particularly, the reporting of "party hold, join, drop" information) and may not be easy to extract without technical complications.

Moreover, if the Commission does not suspend the September 2001 deadline (but subsequently determines that some of the vacated punch list features are required by CALEA), carriers will face yet *another* CALEA capabilities upgrade cycle. Carriers are already having to make extraordinary efforts to manage three separate, CALEA-related upgrades in less than 15 months: the "core" J-STD-025, the capacity requirements (in March 2001) and the punch list (in September 2001). To further complicate this implementation by requiring carriers to implement the two unchallenged punch list items and packet mode communications next September, and then undergo a potential *fourth* installation (for any remaining punch list features the Commission mandates) would impose an enormous burden on carriers.

Such a piecemeal implementation – installing new features in dribs and drabs – is extremely inefficient and costly. In its decision, the Court of Appeals emphasized the

Commission's responsibility under CALEA to "minimize the cost of such compliance on residential ratepayers" and to implement CALEA's capability requirements "by cost-effective means."<sup>7</sup> Creating two compliance deadlines for only a handful of potential capabilities is inconsistent with these obligations. The more sensible approach would be to suspend the September 2001 compliance deadline and establish a single compliance date at the end of the Commission's proceedings for all features that the Commission eventually determines are required by CALEA. Such a suspension would allow for a more orderly and cost-efficient implementation.

Finally, as the Commission is aware, by the end of this month, the Telecommunications Industry Association ("TIA") will present to the Commission its requested report on technical issues concerning CALEA compliance for packet mode communications.<sup>8</sup> Given the complex technical issues discussed in this report (the final draft of which was recently completed by the industry-wide, Joint Experts Meeting convened by TIA)<sup>9</sup> as well as the legal and policy questions raised by the Court of Appeal's decision<sup>10</sup> and recent Congressional

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<sup>7</sup> *United States Telecom Assoc.*, slip op. at 17 (quoting 47 U.S.C. §§ 1006(b)(1) & (3)).

<sup>8</sup> *Third Report & Order*, ¶ 55.

<sup>9</sup> See the final draft of this report, posted on TIA's website <[www.tiaonline.org](http://www.tiaonline.org)>.

<sup>10</sup> *United States Telecom Assoc.*, slip op. at 24-25.

hearings,<sup>11</sup> the prudent step would be to suspend the packet mode compliance deadline until the Commission has all of the information it needs to establish a more realistic compliance regime.

For the foregoing reasons, AT&T strongly supports CTIA's proposal to suspend the September 30, 2001 compliance date for the two unchallenged punch list items and packet mode communications pending completion of the Commission's proceedings on the Court of Appeal's remand and on receipt and evaluation of TIA's packet data report.

Respectfully submitted,

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<sup>11</sup> See, e.g., Hearings before the House Committee on the Judiciary, Subcommittee on the Constitution (September 6, 2000) (discussing potential legislation to restrict law enforcement's ability to monitor packet-data technologies).